



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DIVERSIFIED PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPR, MNR

Introduction

This matter was conducted by way of a Direct Request Proceeding, pursuant to Section 55(4) of the *Residential Tenancy Act* (referred to as the Act) in response to a landlord's application for an Order of Possession and a Monetary Order for unpaid rent.

The landlord submitted a signed Proof of Service of the Notice of Direct Request which declares that the landlord served each tenant with the Notice of Direct Request by registered mail. The landlord provided both Canada Post tracking numbers and the Canada Post website indicates that both packages were received and signed for by one of the tenants on December 20, 2013. Based on this, I find that the tenants were served with the Notice of Direct Request Proceeding.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Has the landlord established a monetary claim against the tenants for unpaid rent?

Background and Evidence

The landlord submitted the following evidentiary material:

- A copy of a tenancy agreement signed by the landlord and the tenants on September 19, 2008 for a tenancy commencing on October 1, 2008 for the monthly rent of \$1,500.00 payable on the first day of each month;
- A copy of a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on December 6, 2013 with an effective vacancy date of December 16, 2013 due to \$1,475.00 in unpaid rent due on December 1, 2013 (both pages of the two page approved form were provided);

- A copy of the Proof of Service of the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which states that the landlord served the notice to the tenants on December 6, 2013, by posting it to the tenants' door with a witness.
- The Landlord's Application for Dispute Resolution made on December 19, 2013 claiming outstanding rent of \$1,475.00 for December, 2013.

Analysis

I have reviewed all the documentary evidence and I accept that the tenants were served by the landlord with the notice to end tenancy by posting it to the door with a witness. The Act states that documents are deemed to have been served 3 days after posting. Therefore, I find that the tenants were deemed to be served the notice on December 9, 2013 and the effective date of vacancy is automatically changed to December 19, 2013 pursuant to Section 53 of the Act.

I accept the evidence before me that the tenants have failed to dispute the notice or pay the full rent owed within the 5 days provided under Section 46(4) of the Act. Therefore, I find that the tenants are conclusively presumed under Section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the notice. I therefore find that the landlord is entitled to an Order of Possession and a Monetary Order for unpaid rent.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favor of the landlord effective **2 days after service on the tenants**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I further grant a Monetary Order in the amount of **\$1,475.00** in favor of the landlord pursuant to Section 67 of the Act. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 30, 2013

Residential Tenancy Branch

